



DOCKET NO. 1161.2002-000

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

In re Application of: Robert A. Houtchens, Maria S. Gawryl, William R. Light and Javed Baqai  
Application No.: 10/090,428  
Filed: February 28, 2002  
Confirmation No.: 6272  
For: PURIFICATION OF RED BLOOD CELLS BY SEPARATION AND DIAFILTRATION

The owner, Biopure Corporation of one hundred (100%) percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Application No. 10/306,819. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The terminal disclaimer fee under 37 CFR 1.20(d) is enclosed.

The undersigned is empowered to act on behalf of the owner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1 March 05  
Date

  
Signature

Carl W. Rausch

Typed or printed name

Biopure Corporation

Name of Corporation

03/10/2005 BABRAHA1 00000007 10090428

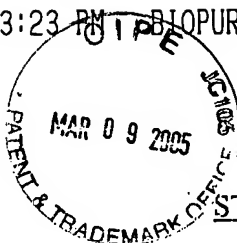
02 FC:1814

130.00 OP

The undersigned is an attorney or agent of record.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sandra A. Brockman-Lee  
Registration No. 44,045  
Telephone: (978) 341-0036  
Facsimile: (978) 341-0136

Docket No. 1161.2002-000STATEMENT UNDER 37 C.F.R. § 3.73(b)Applicants: Robert A. Houtchens, Maria S. Gawryl, William R. Light and Javed RaqqiApplication No.: 10/090,428Filed: February 28, 2002For: PURIFICATION OF RED BLOOD CELLS BY SEPARATION AND DIAFILTRATIONBiopure Corporation  
(Name of Assignee), a Corporation  
(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is

- A. ☒ the assignee of the entire right, title and interest in the patent application identified above; or
- B. ☐ an assignee together with ☐ of the entire right, title and interest in the patent application identified above. A separate Statement under 37 CFR § 3.73(b) is being submitted.

The right, title and interest of the above-named assignee in the patent application identified above is established by virtue of:

- A. ☒ An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 013046, Frame 0836-0840, or a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s) of the patent application identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.

- ☐ Additional documents in the chain of title are listed on a supplemental sheet.

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Date: March 7, 2004Name: Carl W. RauschTitle: Vice Chairman and Chief Technology OfficerSignature:



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Typed or printed name

Biopure Corporation

Name of Corporation

The undersigned is an attorney or agent of record.

\_\_\_\_\_  
Date

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Sandra A. Brockman-Lee  
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